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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,865	10/01/2004	Migaku Suzuki	120904	2855
25944	7590	06/01/2007		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER LONEY, DONALD J	
			ART UNIT 1772	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/509,865	SUZUKI ET AL.	
	Examiner	Art Unit	
	Donald Loney	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by either JP 63-256701 or JP 6-58931 cited by the applicant.

Both references disclose two absorbent layers with a hydrophilic non-woven sheet there between. This is the embodiment of claims 8 and 11 which define the channel member there as in claim 1 between two absorbing layers. Refer to absorbent layers 4,7 and non-woven layer 5 there between in JP 63-256701. Refer to absorbent layers 2,4 and non-woven layer 3 there between in JP 6-58931. With respect to JP '701, the non-woven sheet 5 acts as the channel member allowing fluid to pass from the uppermost absorbing layer 4 to the upper side of the lower absorbing layer 7 per claim 1. With respect JP '931, non-woven sheet 3 acts as the channel member allowing fluid to pass from the uppermost absorbing layer 2 to the upper side of the lower absorbing layer 4 per claim 1. With regards to claim 13, an impervious layer is disclosed on page 5, lines 6-10 of the translation supplied by the applicant in JP '701.

3. Claims 1 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cree et al (5947945).

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Cree et al discloses two absorbent layers 16,18 with a hydrophilic non-woven sheet there between (either sheet 24 or transfer layer 20) wherein non-woven sheet 24 or 20 acts as the channel member allowing fluid to pass from the uppermost absorbing layer 16 to the upper side of the lower absorbing layer 18 per claim 1. This is the embodiment of claims 8 and 11 which define the channel member there as in claim 1 between two absorbing layers. Cree et al discloses the transfer layer 20 is a film according to US Pat. No. 5334289 to Trokham et al at column 5, lines 6-12. Trokham et al discloses the transfer layer 20 can be a non-woven sheet per claims 8-10 at column 13, lines 36-44. The transfer strip 20 appears to be a bundle per claims 11-13 in figures 1, 2A and 2C. Alternatively, layer 24 or 58 in figure 2B shows what can be considered a channel at the sections not touching each other where the sheets come together and rest on sheet 18. This would allow transfer of fluids from upper absorbing sheet 26 to the upper side of absorbing sheet 18.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of JP 63-256701, JP 6-58931 or Cree et al in view of the applicant's discussion of the prior art (ADPA) and Ahr et al (4323069).

The primary reference teaches the invention substantially as recited except for the specific materials of the absorbent layer per claims 2 and 3, the tube per claims 4 and 5 and the undulating sheet per claims 6 and 7. See the 35 U.S.C. 102 rejections above.

From the ADPA on page 14, lines 10-18, it is disclosed that the absorbent layer s are known. Ahr et al discloses an undulating sheet with apertures (sheet 40) therein in known to distribute fluids to an absorbent core 16 per claims 6 and 7.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the combination of the primary references to from the

sheet of the recited material and thickness since the applicant discloses these sheets are known in the art. With regards to claims 4 and 5, a tube would be an obvious means to distribute the fluids motivated by the fact the prior art recognizes the distribution of fluids is desirable and tubes are known to transport fluid materials.

Response to Arguments

8. Applicant's arguments filed March 2, 2007 have been fully considered but they are not persuasive. The applicant argues that the non-woven sheets of JP '701 and '931 do not move fluid from the first layer to the second layer. However, as explained above any non-woven sheet located between two absorbing layers would be capable of transferring fluid from a surface of a first uppermost sheet to the upper side of the second sheet located there below since the non-woven sheets has at least openings (i.e. channels) between the fibers. The applicant has not recited any particular structure as to the channels which would distinguish there from.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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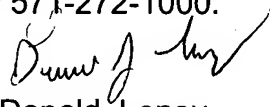
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJL;D.Loney
05/26/07


Donald Loney
Primary Examiner
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